

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. DAMION GOINGS, Defendant.	CR. 20-50131-JLV ORDER
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Defendant Damion Goings is charged in a multi-count indictment. (Docket 18). Count I charges the defendant with possession with intent to distribute a controlled substance, methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) & 841(b)(1)(C). Id. at p. 1. Count II charges the defendant with possession of a firearm by a prohibited person in violation of 18 U.S.C. §§ 922(g)(1) & 924(a)(2). Id. at pp. 1-2. Count III charges the defendant with possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i). Id. at p. 3.

Mr. Goings filed a *pro se* motion to dismiss the indictment pursuant to the Sixth Amendment to the United States Constitution and the Speedy Trial Act, 18 U.S.C. § 3161. (Docket 24). The government opposes the defendant's motion. (Docket 25). Mr. Goings filed a *pro se* reply brief in support of his motion. (Docket 26).

At the defendant's initial appearance on September 11, 2020, United States Magistrate Judge Daneta Wollmann appointed the Federal Public Defender's Office for the Districts of South Dakota and North Dakota to represent Mr. Damion. (Docket 12). Thomas Diggins, an Assistant Federal Public Defender, filed a notice of appearance on the defendant's behalf. (Docket 13). During the pendency of the case, Mr. Goings has been represented by counsel.

Because the defendant is represented by counsel, all motions must be made through his attorney. See United States v. Stanko, 491 F.3d 408, 411 n.2 (8th Cir. 2007) (The court declines to address *pro se* motions when defendant is represented by counsel); United States v. Peck, 161 F.3d 1171, 1174 n.2 (8th Cir. 1998) (It is not the court's "practice to consider *pro se* briefs filed by parties represented by counsel").

Although the court denies defendant's motion without prejudice, it is worth noting that since March 17, 2020, the Honorable Chief Judge Roberto A. Lange signed a number of standing orders suspending jury trials in the District of South Dakota because of the COVID-19 pandemic. See Standing Order 20-03, First Amended Standing Order 20-03, Third Amended Standing Order 20-03, Fourth Amended Standing Order 20-03 and Standing Order 21-01.¹ In addition and pursuant to the Chief Judge's standing orders, the court has

¹All standing orders are available on the court's website at <https://www.sdd.uscourts.gov/> under "Standing Orders."

entered four Western Division standing orders. See Standing Order 20-08, Amended Standing Order 20-08, Second Amended Standing Order 20-08 and Standing Order 21-03. The combined effect of the standing orders of Chief Judge Lange and this court is to continue all jury trial cases in the Western Division until March 8, 2021. Each order declared “that the period of delay resulting from the continuances in this case are excluded under the Speedy Trial Act, 18 U.S.C. § 3161(H)(7)(A).” See Fourth Amended Standing Order 20-03 and Standing Order 21-03.

Mr. Goings made his first appearance before the magistrate judge on September 11, 2020. (Docket 6). As a result, no time under the Speedy Trial Act lapsed.² The speedy trial clock will not start until March 9, 2021, unless suspended by further standing orders or other activities of the parties.

Based on the District-wide and Western Division Standing Orders suspending jury trials and with substantial continuing community spread of COVID-19 in Western Division, defendant’s motion is denied.

Accordingly, it is

ORDERED that defendant’s *pro se* motion (Docket 24) is denied without prejudice.

²The government’s speedy trial clock calculation failed to take into consideration the standing orders referenced earlier in this order.

IT IS FURTHER ORDERED that Mr. Goings shall not be permitted to file any further *pro se* motions. All further motions on behalf of Mr. Goings must be filed through his attorney.

Dated February 4, 2021.

BY THE COURT:

/s/ *Jeffrey L. Viken*

JEFFREY L. VIKEN
UNITED STATES DISTRICT JUDGE